

#000052495

900
4623



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2405

OCT 25 1991

OCT 28 1991

Ref: 8HWM-FF

Mr. Gary W. Baughman, Unit Leader
Hazardous Waste Facilities
Hazardous Materials and Waste Management Division
Colorado Department of Health
4210 East 11th Avenue
Denver, CO 80220-3716

Mr. Frazer Lockhart
Department of Energy
Rocky Flats Office
P.O. Box 928
Golden, CO 80402-0928

Gentlemen:

DOE submitted a Written Statement of Dispute on October 11, 1991, concerning the CDH and EPA denial of the extension request submitted by DOE on September 16, 1991. The September 16, 1991, DOE letter requested extension of the September 30, and October 30, 1991, milestones for completion of construction and startup of the IM/IRA treatment system for OU 2 Walnut Creek to September 24, 1992, and September 25, 1992, respectively. The EPA and CDH letter dated September 26, 1991, denied this schedule request. Pursuant to the IAG, Part 16, Project Coordinators are to attempt to informally resolve such disputes within 14 days. EPA, CDH and DOE have met twice since October 11, 1991, to attempt to resolve this dispute.

As of October 25, 1991, the fourteen day informal dispute resolution period has concluded. This dispute has been successfully resolved as follows:

1) The extension request dated September 16, 1991, 91-DOE-7494, is amended to reflect the following agreed upon IAG milestones:

Complete IM/IRA Construction	April 24, 1992
Begin Field Treatability Testing (Filtration System)	April 27, 1992
Submit Draft Treatability Test Report (Filtration)	May 18, 1993
Submit Final Treatability Test Report (Filtration)	July 13, 1993

These milestones will be in addition to the milestones presently within the IAG for submittal of draft and final Treatability Test Reports for the GAC system already online. A detailed schedule will be submitted by DOE to EPA and CDH supporting the acquisition, installation and operation of the filtration equipment and leading to the April 24, 1992, milestone.

2) DOE will forward to EPA and CDH a copy of the letter from Robert M. Nelson, Jr., Rocky Flats Manager, to James O. Zane, EG&G Acting General Manager, emphasizing the priority of the OU 2 Walnut Creek IM/IRA and environmental restoration activities in general.

3) A copy of the current Cost-Plus Award Fee (CPAF) criteria for the period from July 1 - December 31, 1991, will be sent to EPA and CDH illustrating the emphasis to engineering and procurement support activities within the CPAF criteria. These provisions will continue to be within the CPAF criteria, will be sent to EPA and CDH as finalized after each performance period, will be evaluated during each performance period for effectiveness, and will be modified to insure that the maintenance and operation contractor (presently EG&G) attends to the engineering and procurement activities in a manner which does not impact IAG milestones.

4) DOE agrees that procurement and engineering activities in support of IAG milestones are within their reasonable control. DOE agrees to implement acquisition and engineering support improvements designed to insure that all IAG milestones are met and which will support implementation of IM/IRAs in an expedited fashion. DOE recognizes that in most instances IM/IRAs should be able to go from approval of the decision document to operation in six to nine months.

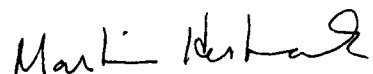
The extensions granted above in resolving this dispute shall not affect or constitute good cause to extend any other timetable or IAG milestone. The circumstances which delayed the Walnut Creek IM/IRA were largely within DOE's control and as such, EPA specifically rejects the assertion forwarded within the DOE letter 91-DOE-8325, dated October 11, 1991, that these delays were caused by Force Majeure.

EPA is pleased to see that a workable solution to this dispute could be found through staff discussions, and appreciate your efforts and cooperation during the negotiations. As was discussed in those sessions, the objective in this process was to elevate the procurement and engineering support problems to proper management levels at Rocky Flats to insure that these problems are solved. We are confident Rocky Flats will implement policy and procedures designed to streamline the IM/IRA process so that future IM/IRAs can be completed in a reasonable timeframe commensurate with their purpose. We are also confident that the resolution of this issue will preclude procurement and engineering support problems from impacting any IAG milestones.

As the informal dispute resolution period has expired, any disagreement with the terms of this letter resolving this dispute must be forwarded to me immediately. If the parties do not agree

that this letter resolves this dispute, outstanding issues may be raised to the Dispute Resolution Committee. If you have not responded by October 30, 1991, EPA considers this dispute resolved.

Sincerely,

A handwritten signature in dark ink, appearing to read "Martin Hestmark". The signature is written in a cursive style with a large, stylized "M" and "H".

Martin Hestmark, Manager
Rocky Flats Project